

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BRANDI VAN EMON,

Plaintiff,

Case No. 05-CV-72638

vs.

HON. GEORGE CARAM STEEH

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Defendant.

ORDER AFFIRMING MAGISTRATE JUDGE'S DECISION (DOC # 63) AND DENYING
AS MOOT DEFENDANT'S EMERGENCY MOTION FOR STAY PENDING APPEAL OF
MAGISTRATE'S DECISION (DOC # 64)

Before the court are two related requests made by the defendant. The first is an appeal of a decision concerning discovery, issued by Magistrate Judge Donald Scheer, and the second is an "emergency motion for stay pending appeal of magistrate judge's decision," filed October 6, 2006. The issue is whether defendant must timely respond to discovery requests, which it asserts would be largely reduced, should certain claims be dismissed as a result of its pending summary judgment motion.

In the case of Basirico v. State Farm, # 05-74691, also assigned to this court, the identical issue was brought before Magistrate Morgan, who came to a conclusion different than that of Magistrate Scheer. The court is aware of the differing results.

As plaintiff asserts, citing to the case of Moore v. Secretary of Health and Human Services, 651 F.Supp. 514, 515, a magistrate's order concerning a nondispositive ruling should not be overturned by the court unless the ruling is "clearly erroneous or contrary

to law.” 28 U.S.C. § 636(b)(1)(A). Although the court is not here deciding that it disagrees with Magistrate Morgan’s decision, it certainly has not been convinced by defendant of any such error in Magistrate Scheer’s ruling.

Accordingly, the court hereby AFFIRMS Magistrate Scheer’s ruling and DENIES AS MOOT defendant’s “emergency” motion. The court notes that the document production deadline of October 4, 2006 stated in the magistrate’s ruling has now passed, during the pendency of this appeal and motion. That date is hereby extended until October 17, 2006.

Dated: October 10, 2006

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on October 10, 2006, by electronic and/or ordinary mail.

S/Josephine Chaffee
Deputy Clerk